

MONTANA LEGISLATIVE HISTORY

Chapter 287 ~~2001~~

Bill H _____ S 229

Original bill & history ☒ C

H. Committee on Judiciary

Hearing Date(s) 3-6 ☒ C

3-22 ☒ C

_____ C

_____ C

Date Out _____ C

S. Committee on Business & Labor

Hearing Date(s) 1-23 ☒ C

_____ C

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_____ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	04/20/2001			
(S) Signed by Governor	04/20/2001			
(S) Transmitted to Governor	04/10/2001			
(H) Signed by Speaker	04/09/2001			
(S) Signed by President	04/06/2001			
(S) Returned from Enrolling	04/06/2001			
(C) Sent to Printing	04/05/2001			
(S) Sent to Enrolling	04/04/2001			
(S) 3rd Reading Passed as Amended by House	04/04/2001	47	1	
(S) 2nd Reading House Amendments Concurred on Voice Vote	04/03/2001	49	0	
(S) Scheduled for 2nd Reading	04/03/2001			
(H) Motion Carried	03/31/2001			
(H) Returned to Senate with Amendments	03/31/2001			
(H) 3rd Reading Concurred	03/31/2001	77	23	
(H) Scheduled for 3rd Reading	03/31/2001			
(H) 2nd Reading Concurred	03/29/2001	76	24	
(H) Scheduled for 2nd Reading	03/29/2001			
(C) Sent to Printing	03/22/2001			
(H) Committee Report--Bill Concurred as Amended	03/22/2001			(H) Judiciary
(H) Committee Executive Action--Bill Concurred as Amended	03/22/2001	12	8	(H) Judiciary
(H) Hearing	03/06/2001			(H) Judiciary
(H) Referred to Committee	02/01/2001			(H) Judiciary
(H) First Reading	01/26/2001			
(S) Transmitted to House	01/25/2001			
(S) 3rd Reading Passed	01/25/2001	50	0	
(S) Scheduled for 3rd Reading	01/25/2001			
(S) 2nd Reading Passed on Voice Vote	01/24/2001	50	0	
(S) Scheduled for 2nd Reading	01/24/2001			
(S) Committee Report--Bill Passed	01/23/2001			(S) Business and Labor
(S) Committee Executive Action--Bill Passed	01/23/2001	9	0	(S) Business and Labor
(S) Hearing	01/23/2001			(S) Business and Labor
(C) Introduced Bill Text Available Electronically	01/10/2001			

(S) Referred to Committee	01/10/2001			(S) Business and Labor
(S) First Reading	01/10/2001			
(S) Introduced	01/10/2001			
(C) Draft Delivered to Requester	01/08/2001			
(C) Draft Ready for Delivery	12/28/2000			
(C) Draft in Assembly/Executive Director Review	12/22/2000			
(C) Draft in Final Drafter Review	12/22/2000			
(C) Bill Draft Text Available Electronically	12/21/2000			
(C) Draft in Input/Proofing	12/21/2000			
(C) Draft to Drafter - Edit Review [CAJ]	12/21/2000			
(C) Draft in Edit	12/21/2000			
(C) Draft to Requester for Review	12/05/2000			
(C) Draft Request Received	12/01/2000			

SENATE BILL NO. 229
INTRODUCED BY V. COCCHIARELLA

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT IT IS NOT MARITAL STATUS DISCRIMINATION FOR AN EMPLOYER TO EMPLOY OR OFFER TO EMPLOY A PERSON WHO IS QUALIFIED FOR THE POSITION, BASED UPON THE EMPLOYER'S DESIRE TO EMPLOY OR RETAIN THE EMPLOYMENT OF THE PERSON'S SPOUSE; AND AMENDING SECTION 49-2-303, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 49-2-303, MCA, is amended to read:

"49-2-303. Discrimination in employment. (1) It is an unlawful discriminatory practice for:

(a) an employer to refuse employment to a person, to bar a person from employment, or to discriminate against a person in compensation or in a term, condition, or privilege of employment because of race, creed, religion, color, or national origin or because of age, physical or mental disability, marital status, or sex when the reasonable demands of the position do not require an age, physical or mental disability, marital status, or sex distinction;

(b) a labor organization or joint labor management committee controlling apprenticeship to exclude or expel any person from its membership or from an apprenticeship or training program or to discriminate in any way against a member of or an applicant to the labor organization or an employer or employee because of race, creed, religion, color, or national origin or because of age, physical or mental disability, marital status, or sex when the reasonable demands of the program do not require an age, physical or mental disability, marital status, or sex distinction;

(c) an employer or employment agency to print or circulate or cause to be printed or circulated a statement, advertisement, or publication or to use an employment application that expresses, directly or indirectly, a limitation, specification, or discrimination as to sex, marital status, age, physical or mental disability, race, creed, religion, color, or national origin or an intent to make the limitation, unless based upon a bona fide occupational qualification;

(d) an employment agency to fail or refuse to refer for employment, to classify, or otherwise to discriminate against any individual because of sex, marital status, age, physical or mental disability, race, creed, religion, color, or national origin, unless based upon a bona fide occupational qualification.

(2) The exceptions permitted in subsection (1) based on bona fide occupational qualifications must be strictly construed.

(3) Compliance with 2-2-302 and 2-2-303, which prohibit nepotism in public agencies, may not be construed as a violation of this section.

(4) The application of a hiring preference, as provided for in 2-18-111 and 18-1-110, may not be construed to be a violation of this section.

(5) It is not a violation of the prohibition against marital status discrimination in this section:

(a) for an employer or labor organization to provide greater or additional contributions to a bona fide group insurance plan for employees with dependents than to those employees without dependents or with fewer dependents; or

(b) for an employer to employ or offer to employ a person who is qualified for the position, based upon the employer's desire to employ or retain the employment of the person's spouse."

- END -

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN MIKE TAYLOR**, on January 23, 2001 at 8:00 A.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Mike Taylor, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Edward Butcher (R)
Sen. Vicki Cocchiarella (D)
Sen. Sam Kitzenberg (R)
Sen. Dale Mahlum (R)
Sen. Glenn Roush (D)
Sen. Don Ryan (D)

Members Excused: Sen. Dale Berry (R)

Members Absent: None.

Staff Present: Bart Campbell, Legislative Branch
Kyanne Kelly, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB211, 1/20/2001; SB229,
1/20/2001; HB98, 1/20/2001
Executive Action: SB211; SB229; SB195; SB164;
SB27; HB98; SB145; SB189

HEARING ON SB 211

Sponsor: SENATOR DEBBIE SHEA, SD18, BUTTE/SILVERBOW

Proponents: Eric Fehlig, Department of Commerce
EXHIBIT(bus18a01)

Opponents: None

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 0.2}

SENATOR DEBBIE SHEA, SD18, BUTTE/SILVERBOW, said this bill repeals certain sections in code because they are no longer required for the protection and health of the people of Montana.

Proponents' Testimony:

Eric Fehlig, Department of Commerce, stated this repeals Title 50, chapt 64. The department repealed all of its rules relating to asbestos regulation in 1996. Asbestos regulation is now done by the Department of Environmental Quality.

Opponents' Testimony: None

Questions from Committee Members and Responses:

CHAIRMAN MIKE TAYLOR asked if there are any FTE's associated with this.

Eric Fehlig, said no.

Closing by Sponsor: SENATOR SHEA closed without comment.

HEARING ON SB 229

Sponsor: SENATOR VICKI COCCHIARELLA, SD 32, MISSOULA

Proponents: Kathy Crego, University of Montana
Don Christian, University of Montana
Inga Nelson, Montana Education Association

Opponents: None

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 5.2}

SENATOR VICKI COCCHIARELLA, SD 32, MISSOULA, said this bill allows that if someone is employed at the University of Montana their spouse can be employed if they are qualified.

Proponents' Testimony:

Kathy Crego, University of Montana, said this would increase their ability to recruit highly trained researchers and professors who are married to qualified researchers and professors.

Don Christian, University of Montana, said they have lost highly qualified people because there was not a position for their spouse.

Inga Nelson, Montana Education Association, said this would allow the University to be more competitive and provide the best education possible to our state.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SENATOR EDWARD BUTCHER asked about the policy of hiring a spouse at this point in time.

Kathy Crego said you could hire a spouse. She went on to say that you could not consider marital status in making your employment decision.

SENATOR ED BUTCHER asked if there would be potential litigation of discrimination by this bill.

Kathy Crego said no.

SENATOR MIKE SPRAGUE asked if part of the negotiations with professors would be that work would be found for their wives.

Kathy Crego said yes but only if the spouse is qualified.

SENATOR BUTCHER asked if there was a problem with tenure with both spouses at the University.

Kathy Crego said there are nepotism laws with which they currently comply. She further elucidated that there would be instances where they would sometimes have to hire someone slightly less qualified because they are the spouse.

Closing by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 4.5}

SENATOR VICKI COCCHIARELLA, SD 32, MISSOULA, said the essence of this legislation is to remove the roadblocks to bringing the best qualified people to work at the University.

EXECUTIVE ACTION ON SB 211

Motion/Vote: SEN. RYAN moved that SB211 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON SB 229

Motion/Vote: SEN. COCCHIARELLA moved that SB229 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON SB 164

Motion/Vote: SEN. COCCHIARELLA moved that AMENDMENTS 16402 AND 16401 BE ADOPTED. Motion carried unanimously. EXHIBIT(bus18a02) and EXHIBIT(bus18a03)

Motion/Vote: SEN. COCCHIARELLA moved that SB 164 DO PASS AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON SB 27

Motion/Vote: SEN. COCCHIARELLA moved that SB 27 BE TABLED. Motion failed 4-5 with Cocchiarella, Mahlum, Roush, and Ryan voting aye.

Motion/Vote: SEN. BUTCHER moved that SB 27 DO PASS AS AMENDED. Motion carried 5-4 with Cocchiarella, Mahlum, Roush, and Ryan voting no. EXHIBIT(bus18a04)

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN JIM SHOCKLEY**, on March 6, 2001 at 8:00 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Jim Shockley, Chairman (R)
Rep. Paul Clark, Vice Chairman (D)
Rep. Jeff Laszloffy, Vice Chairman (R)
Rep. Darrel Adams (R)
Rep. Gilda Clancy (R)
Rep. Aubyn A. Curtiss (R)
Rep. Bill Eggers (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Christopher Harris (D)
Rep. Linda Holden (R)
Rep. Joan Hurdle (D)
Rep. Jeff Mangan (D)
Rep. Mark Noennig (R)
Rep. Ken Peterson (R)
Rep. Bill Thomas (R)
Rep. Merlin Wolery (R)
Rep. Cindy Younkin (R)

Members Excused: Rep. Brad Newman (D)
Rep. Diane Rice (R)

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Mary Lou Schmitz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: **SJ 2 - 2-19-01**
SB 209 - 2-19-01
SB 229 - 2-19-01

HEARING ON SB 229

Sponsor: Senator Vicki Cocchiarella, SD 32, Missoula said this Bill is a clarification of the Montana Human Rights Act. This Bill attempts to put Montana on the same footing as 30 other states in the nation allowing an employer to offer a job to an employee's spouse or to retain the spouse of an employee. In Montana, right now, businesses and the University System who employ several spouse combinations, cannot use marital status to determine employment. Even if the couple is in a job-sharing situation, they cannot be hired because they are married.

Proponents: Nancy Borgman, Director, Equal Opportunity Office, University of Montana, Missoula.

{Tape : 1; Side : A; Approx. Time Counter : 0 - 28.1}

Don Christian, University of Montana

Inga Nelson, MEA-MFT, Helena

LeRoy Schramm, Legal Counsel, Board of Regents,
Montana University System.

Opponents: None

Questions from Committee Members and Responses: Reps. Mangan, Adams, Peterson, Noennig, Shockley to Mr. Christian, Senator Cocchiarella, Mr. Schramm.

{Tape : 1; Side : B; Approx. Time Counter : 0.1 - 28.1}

Closing by Sponsor: Senator Cocchiarella closed the Hearing on SB 229.

{Tape : 2; Side : A; Approx. Time Counter : 0.1 - 14.5}

HEARING ON SJR 2

Sponsor: Senator Mignon Waterman, SD 26, Helena said this Resolution simply requires that the Department of Public Health and Human Services and the Department of Corrections coordinate and collaborate with state agencies, local government, and the judiciary on training and education programs, issues surrounding people with mental illness in the criminal justice and corrections system. Now there is a two-hour training at the Law Enforcement Academy. Until this last year it was only one hour

{Tape : 2; Side : B; Approx. Time Counter : 0.1 - 29.7}

Vote: Motion #20 passed on Younkin amendment 14-6 with Reps. Shockley, Adams, Clancy, Curtiss, Noennig and Thomas voting no.

Motion: REP. ADAMS moved that SB 132 BE CONCURRED IN AS AMENDED. #21.

Discussion: Reps. Thomas, Mangan, Harris, Gallus, Clancy, Younkin.

Vote: Motion #21 carried unanimously 20-0.

EXECUTIVE ACTION ON SJ 17

Motion: REP. ADAMS moved that SJ 17 BE CONCURRED IN. #22

Discussion: Reps. Noennig, Hurdle.

Motion: REP. NEWMAN moved that SJ 17 BE AMENDED. #23

Discussion: Reps. Newman, Laszloffy, Gutsche, Hurdle.

Motion: REP. HURDLE moved a substitute motion that SJ 17 BE AMENDED on line 21, after the word "ownership" to put a period and to delete the "whereas" that begins on line 16 and terminates on line 17. #24

{Tape : 3; Side : A; Approx. Time Counter : 0.1 - 29.4}

Discussion: Reps. Hurdle, Newman, Gallus.

Vote: Motion #24 carried unanimously 20-0

Motion/Vote: REP. ADAMS moved that SJ 17 BE CONCURRED IN AS AMENDED. #25 Motion carried unanimously 20-0

EXECUTIVE ACTION ON SB 229

Motion: REP. YOUNKIN moved that SB 229 BE CONCURRED IN. #26

Motion: REP. MANGAN moved that SB 229 BE AMENDED. #27
EXHIBIT(juh65a03)

Discussion: Rep. Mangan explained the amendment by saying it takes out special consideration language in the Bill.

Further Discussion: Reps. Laszloffy, Noennig, Mangan, for clarification and explanations

Vote: Motion (#27) failed on a tie vote 10-10.

Motion/Vote: REP. GALLUS moved to reconsider the vote on Amendment #27. #28 Motion carried 16-4 with Reps. Adams, Curtiss, Holden and Rice voting no.

Motion: REP. MANGAN moved that SB 229 BE AMENDED. EXHIBIT 3. #29.

Discussion: Rep. Mangan explained his amendment further.

Vote: Mangan Motion carried 12-8 with Reps. Laszloffy, Adams, Clancy, Curtiss, Noennig, Rice, Thomas and Wolery voting no.

Discussion: Reps. Shockley, Mangan, Clark, Noennig, Laszloffy, Curtiss.

{Tape : 3; Side : B; Approx. Time Counter : 0.1 - 29.4}

Further Discussion: Reps. Peterson, Adams, Gutsche.

Motion/Vote: REP. ADAMS moved that SB 229 BE TABLED. #30 Motion failed 8-11 with Reps. Clancy, Eggers, Gallus, Gutsche, Harris, Holden, Hurdle, Mangan, Newman, Noennig and Younkin voting no.

Motion/Vote: REP. ADAMS moved that SB 229 BE CONCURRED IN AS AMENDED. #31. Motion carried 12-8 with Reps. Shockley, Laszloffy, Clark, Adams, Curtiss, Peterson, Rice and Wolery voting no.

Discussion: Reps. Shockley, Newman and Mr. Macmaster concerning HB 146 and SB 386.

EXECUTIVE ACTION ON SB 342

Motion: REP. YOUNKIN moved that SB 342 BE CONCURRED IN. #32

Discussion: Reps. Gutsche, Peterson, Mangan, Noennig.